

REMARKS

Claims 1-22 are pending in the present application, however claims 1-17 and 19 are withdrawn at this time. Claims 18 and 20-22 have been examined. The rejection of claim 18 as anticipated has been withdrawn.

Claims 20 and 21 and claims 18 and 22 (separately) are rejected as obvious over Carlsen et al., WO 01/83459 (hereinafter "Carlsen"). In order to make out a prima facie case of obviousness, the Office has the initial burden to show that the art teaches or fairly suggests to a reader of ordinary skill each and every claim element, and that the art provides some sort of motivation or guidance that would lead the artisan to achieve the invention as a whole, as claimed, with a reasonable expectation of success.

The Office has alleged that Carlsen teaches a process using "analogous reactants" to prepare compounds "similar to" those of formula II (see Office Action of March 20, 2009, page 5) using a different "order of reaction" (see Office Action of November 27, 2009, page 3). The Office has not alleged or presented any evidence or reasoning showing why the reactants are analogous and should be treated as equivalent to what is claimed, why the compounds prepared are similar, why the degree of similarity mandates that they be treated as identical or what guidance and signposts in the art lead the skilled artisan to believe that they are equivalent, or why the art would motivate one to change the order of the reaction with a reasonable expectation of success. Without an actual showing by the Office, more statements are insufficient to make out a prima facie case and to shift the burden to Applicant. For this reason, the Office

has not made out a prima facie case and should withdraw the rejection.

Carlsen et al. teaches the preparation of aniline intermediates of formula VI by reduction of the respective nitro compounds, wherein the reduction is preferably carried out under acidic conditions with a transition metal (preferably Fe), which itself is used in equimolar amounts or even in an excess compared to the nitrated compound XI (see Carlsen et al., page 38, lines 33 to 45 and page 45, lines 19 to 23). Carlsen et al. mentions as one of several alternative reduction methods also the catalytical reduction with hydrogen (page 45, lines 40 to 45), but there are no respective examples disclosed. Accordingly, within the different reduction methods taught in Carlsen et al., the reduction under acidic conditions with Fe in equimolar amounts or in excess is clearly preferred.

The present set of claims is directed to specific aminobenzoylsulfamic acid amide derivatives (II) as well to a process for the preparation of said compounds of formula II. The compounds of formula II are structurally complex compounds which are characterized by a typical substitution pattern at the phenyl moiety of the amino-sulfonyl-amino carbonyl side chain on the one hand and on the other the halogen or cyano group in para-position to this side chain.

Surprisingly, the Applicant has found that these compounds of formula II can be prepared with much better yields when the reduction is conducted with hydrogen in the presence of catalytic amounts of transition metals or transition metal compounds, compared to the reduction conducted with iron powder/acetic acid. In this respect, Applicant refers to examples 25 and 31 disclosed in the present application on pages 58 and 59. These examples clearly prove that the reduction

conducted with an excess of iron powder under acidic conditions leads to only 75.3% of the desired product, whereas the reduction with hydrogen in the presence of catalytic amounts of a transition metal gives 97% of the desired compounds.

These results could not have been obvious for a skilled person. There is no hint given in Carlsen et al. that the specific reduction method used according to the present invention would lead to such a significantly better result. Furthermore since according to Carlsen et al. the reduction under acidic conditions with Fe in equimolar amounts or in excess is clearly preferred, Carlsen et al. teaches away from the present invention instead of suggesting to use the reduction method as claimed in the present invention.

For the above-reasons, Applicant submits that the specific aminobenzoylsulfamic acid amide derivatives (II) as well as the process for the preparation of the compounds of formula 11 are not obvious.

Because Carlsen does not contain any specific guidance pointing or leading the artisan to the compounds of claims 18 and 22, the Office has cited as "motivation" only the fact that the genus of compounds in Carlsen assertedly embrace them. Yet the Office Action only alleges that Carlsen teaches compounds "structurally similar" to the claimed compounds. Carlsen discloses a broad generic class of compounds, but does not point in any way to the specific combination of substituents of claim 18.

Further there is no indication in Carlsen that these compounds can be made with the methods of claims 20-21 or the increased efficiency of reaction shown in the application. Therefore, Applicant further submits that the unexpected superiority of yield with the present synthetic method rebuts

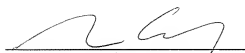
any case of obviousness of the claims here that the Office might care to maintain.

Applicant therefore requests withdrawal of these rejections in view of the remarks contained herein.

Applicant requests reconsideration of the application and allowance of all claims presented here.

Respectfully submitted,

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